

Claims 7 and 10 were rejected under 35 U.S.C. §102(b) as being anticipated by Schiff. This rejection is respectfully traversed for the following reasons.

5 The Examiner stated the Schiff reference discloses a metal sleeve 48, which the Examiner is interpreting as a metallic tubular member as claimed, and stated that this metal sleeve 48 is disposed in a housing 30 containing a plurality of interior components to make electrical contact with the plug 18.

10 Applicants do not disagree with these statements of the Examiner regarding the disclosure of the Schiff reference, however, the Examiner has ignored the first element of independent claim 7, which requires a metallic housing having a first wall with a first opening therein and a second wall with a second opening therein. The metallic tubular member is disposed within these first and second openings of the metallic housing.

15 This metallic housing can be best seen in Figure 5, generally designated with the reference numeral 60. This metallic housing has a first wall at the right side of Figure 5, containing a first opening 61, and a second wall at the left side of Figure 5 containing a second opening 62. The metallic tube 21 (provided with reference numeral 21 in Figure 4 and shown in Figure 5, but not designated with a reference numeral) is held within these first and
20 second openings in the metallic housing.

The Examiner did not identify any components in the Schiff reference corresponding to this metallic housing with first and second openings therein, and indeed there are no such components that are clearly disclosed in the Schiff reference. In the various embodiments disclosed in the Schiff
25 reference, the upper portion of the pacemaker is referred to as a "connection head," and is given different reference numerals (12, 30, 52, 70 and 90) in the various figures. A material of this "connection head" is never specified in the Schiff disclosure, although at column 7, line 14, it is differentiated from the casing 16, at least in the embodiment of Figure 2.

30 As the Examiner is aware, it has heretofore been conventional to make the "connection head" (also sometimes referred to as a "header") of silicone or epoxy material. The Schiff reference is definitely of a vintage (1993 filing

date) for which a person of ordinary skill in the art, without being informed otherwise, would automatically assume that the "connection head" is composed of silicone or epoxy, as was conventional at the time. There is no teaching whatsoever in the Schiff reference to inform a person of ordinary skill
5 in the art otherwise.

Therefore, the Schiff reference does not explicitly disclose a metallic housing having first and second openings in which a metallic tube is disposed, as set forth in independent claim 7 of the present application and, moreover, a person of ordinary skill in the art would assume otherwise, namely a person of
10 ordinary skill in the art would assume that the "connection head" in all embodiments of the Schiff reference is composed of silicone or epoxy, or at least is non-metallic.

The Schiff reference therefore does not disclose all of the elements of independent claim 7, and therefore does not anticipate claim 7 under
15 U.S.C. §102(b). For the same reasons, the Schiff reference does not anticipate claim 10, which depends from claim 7.

Claims 8, 9, 11, 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Schiff in view of Truex et al. The Truex et al. reference substantiates the above statements regarding the expected thinking
20 of those of ordinary skill in the art when a separate "connection head" is employed. The separately attached connector 22 is shown in Figure 1 and Figure 3A of the Truex et al. reference, and the separately attached connector 22 is stated to be composed of epoxy, bonded to the housing or case 16 (column 1, lines 50-52). The Truex et al. reference does show, in Figure 3B,
25 an embodiment having a metallic housing, however, in this case there is no separately attached connector or connection head, and the metallic housing is continuous around the entirety of the pulse generator and the socket therein. Therefore, in this embodiment there is no separately attached connector or connector portion, and moreover there are not two walls with two openings
30 respectively therein, as set forth in claim 1 of the application.

The Truex et al. reference, therefore, substantiates the remarks above concerning the Schiff reference that when a separately attached connector or

connection head is employed, this is conventionally made of non-metallic material. In the version of Figure 3B disclosed in the Truex et al. reference, the metallic housing is continuous, and therefore does not and cannot have two oppositely disposed openings therein and, moreover, this is not an embodiment employing an attachable connector, as in the Schiff reference. Therefore, Applicants submit a person of ordinary skill in the art would find no teachings in either the Schiff reference or the Truex et al. reference to modify the Schiff reference to make the connector head of metal, and to have two oppositely disposed openings therein, as set forth in independent claim 7, from which claims 8, 9, 11, 12 and 13 depend.

Therefore, even if the Examiner's comments regarding the teachings of the Truex et al. reference as specifically applied to claims 8, 9, 11, 12 and 13 are correct, a combination of the teachings of Schiff and Truex et al. still would not result in a pacemaker as set forth in those claims, since each of those claims embodies the subject matter of independent claim 7 therein.

Claims 16 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Schiff in view of Peers-Trevarton.

As described at column 3, the connector portion in that reference is referred to as a "neck" 22, and is explicitly stated to be fabricated from molded epoxy resin (column 3, line 42). This is also apparent from the type of hatching for the element 40 shown in the sectional views, which clearly indicates a plastic-like material, or at least a non-metallic material.

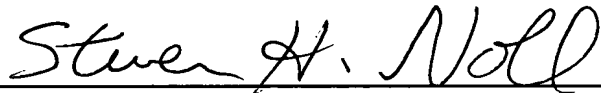
Therefore, even if the device disclosed in the Schiff reference were modified in accordance with the teachings of Peers-Trevarton, the subject matter of claim 7 still would not result from which claims 16 and 17 depend. Claims 16 and 17, therefore would not have been obvious to a person of ordinary skill in the art under the provisions of 35 U.S.C. §103(a) based on the teachings of Schiff and Peers-Trevarton.

Applicants note with appreciation the Examiner's statement that claims 14 and 15 would be allowable if rewritten in independent form, however, in view of Applicants' belief that independent claim 7 is patentable over the

references relied upon by the Examiner, those claims have been retained in dependent form at this time.

5 All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,

 (Reg. 28,982)

SCHIFF, HARDIN & WAITE

CUSTOMER NO. 26574

Patent Department

6600 Sears Tower

233 South Wacker Drive

Chicago, Illinois 60606

Telephone: 312/258-5790

Attorneys for Applicants.